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To: Commissioner for Patents -- Date: October 18, 2004
Attn Examiner K. Smith - Art
Unit 3644

Fax #: 1-703-872-9306 **Pages:** Three (3), including this cover sheet.

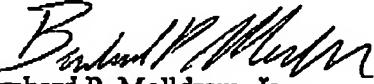
From: Bernhard P. Molldrem, Jr

Subject: Ser. No. 10/666,874, filed Sept. 19, 2003, Moreau, Joseph R.

COMMENTS:

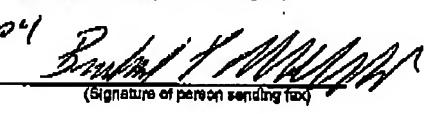
The Response (2 pages) is filed in answer to the Official Action of October 4, 2004.

Please bring this to the Examiner's attention forthwith.


Bernhard P. Molldrem, Jr.
Reg. No. 28,973
Attorney for Applicant
Customer No. 25891

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by Facsimile on the date shown below to Commissioner for Patents, Alexandria VA 22313; Facsimile No. 1-703 872-9306


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PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Joseph R. Moreau
Ser. No. 10/666,874
Filed September 19, 2003
For: Elevated Beam Cow Stall
Assembly
Atty Docket No. 630.027PA
October 18, 2004
Art Unit: 3644
Examiner: Kimberly S. Smith

RESPONSE

Hon. Commissioner for Patents
Mail Stop NON-FEE Amendment
Alexandria VA 22313-1450

Sir:

In response to the Official Action of October 4, 2004, applicant elects the Group I claims (Claims 1-15) and respectfully traverses the restriction requirement as between Claims 1 to 15, Claims 16 to 18, and Claims 19 to 20.

In support of the restriction requirement, Examiner argues that the inventions are distinct because the groups of claims are related as combination and subcombination, and that the subcombination has separate utility, citing MPEP § 806.05(c). The Examiner also asserts that the subcombinations are distinct from each other as allegedly having separate utility, MPEP §806.05(d). Here the Examiner asserts “separate utility such as a mounting bracket for a roof joist with regards to the angle bracket [claims 19 - 20] and a support for maintaining a garage door in an ajar position with regard to the stanchion [claims 16 - 19].”

The cited section of the MPEP clearly states that the examiner has the burden of suggesting a viable example of a separate utility. In this instance, the examiner has not supported the alleged utility with any reference, and applicant is baffled as to how the claimed vertical stanchion of Group II, which requires a vertical tube member, an upper receiver formed of a channel, and a lower receiver, with the upper and lower receivers each projecting in two different directions from the tube member, could possibly be employed as support means for holding a

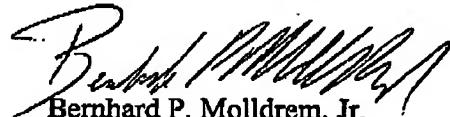
Ser. No. 10/666,874
630.027PA

garage door in an open position. Applicant does not perceive how the claimed angle bracket of Group III, which requires a side plate with bolt holes and a back plate at right angles to it with pairs of bolt holes at its upper and lower ends plus three additional pairs of bolt holes in spaced relation between the first and second pairs of holes, and with these pairs of holes being adapted specifically for receiving U-bolts, could serve as a mounting bracket for a roof joist.

If the Examiner is to maintain this restriction, Applicant requests the examiner cite references to show how these allegedly separate utilities might be carried out with the claimed subject matter of the Group II or Group III claims. Otherwise, the restriction should be withdrawn.

In view of the foregoing remarks, it is urged that all of Claims 1 to 20 should remain in this case and should all be examined together.

Respectfully submitted,



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